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7 IN THE UNITED STATES DISTRICT COURT
 8 FOR THE DISTRICT OF ARIZONA
 9

10 United States of America,
 11 Plaintiff,

12 vs.

13 Wesley Warren Temple,
 14 Defendant.
 15

No. CR- 22-01107-PHX-JJT(JZB)

PLEA AGREEMENT

16 Plaintiff, United States of America, and the defendant, Wesley Warren Temple,
 17 hereby agree to resolve this matter on the following terms and conditions:

18 1. **PLEA**

19 The defendant will plead guilty to Count One of the indictment charging the
 20 defendant with a violation of Title 26 United States Code (U.S.C.) § 5861(d), Possession
 21 of a Firearm Not Registered in the National Firearms Registration and Transfer Record, a
 22 Class C felony offense.

23 2. **MAXIMUM PENALTIES**

24 a. A violation of Title 26 United States Code (U.S.C.) § 5861(d) is punishable
 25 by a maximum fine of \$250,000.00, a maximum term of imprisonment of 10 years, or both,
 26 and a term of supervised release of 3 years. A maximum term of probation is five years
 27 (including a minimum term of one year if probation is imposed).
 28

1 b. According to the Sentencing Guidelines issued pursuant to the Sentencing
2 Reform Act of 1984, the Court shall order the defendant to:

3 (1) make restitution to any victim of the offense pursuant to 18 U.S.C.
4 § 3663 and/or 3663A, unless the Court determines that restitution would not be
5 appropriate;

6 (2) pay a fine pursuant to 18 U.S.C. § 3572, unless the Court finds that a
7 fine is not appropriate;

8 (3) serve a term of supervised release when required by statute or when a
9 sentence of imprisonment of more than one year is imposed (with the understanding that
10 the Court may impose a term of supervised release in all other cases); and

11 (4) pay upon conviction a \$100.00 special assessment for each count to
12 which the defendant pleads guilty pursuant to 18 U.S.C. § 3013.

13 c. The Court is required to consider the Sentencing Guidelines in determining
14 the defendant's sentence. However, the Sentencing Guidelines are advisory, and the Court
15 is free to exercise its discretion to impose any reasonable sentence up to the maximum set
16 by statute for the crime(s) of conviction, unless there are stipulations to the contrary that
17 the Court accepts.

18 3. AGREEMENTS REGARDING SENTENCING

19 a. Recommendation. Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United
20 States will recommend a sentence of nineteen (19) months less than the low end of the
21 sentencing range as calculated under U.S.S.G. § 1B1.1(a), before any other departures or
22 variances considered by the court under U.S.S.G. § 1B1.1(b).

23 b. Non-Binding Recommendations. The defendant understands that
24 recommendations are not binding on the Court. The defendant further understands that the
25 defendant will not be permitted to withdraw the guilty plea if the Court does not follow a
26 recommendation.

27 c. Assets and Financial Responsibility. The defendant shall make a full
28 accounting of all assets in which the defendant has any legal or equitable interest. The

1 defendant shall not (and shall not aid or abet any other party to) sell, hide, waste, spend, or
2 transfer any such assets or property before sentencing, without the prior approval of the
3 United States (provided, however, that no prior approval will be required for routine, day-
4 to-day expenditures). The defendant also expressly authorizes the United States Attorney's
5 Office to immediately obtain a credit report as to the defendant in order to evaluate the
6 defendant's ability to satisfy any financial obligation imposed by the Court. The defendant
7 also shall make full disclosure of all current and projected assets to the U.S. Probation
8 Office immediately and prior to the termination of the defendant's supervised release or
9 probation, such disclosures to be shared with the U.S. Attorney's Office, including the
10 Financial Litigation Unit, for any purpose. Finally, the defendant shall participate in the
11 Inmate Financial Responsibility Program to fulfill all financial obligations due and owing
12 under this agreement and the law.

13 d. Acceptance of Responsibility. If the defendant makes full and complete
14 disclosure to the U.S. Probation Office of the circumstances surrounding the defendant's
15 commission of the offense, and if the defendant demonstrates an acceptance of
16 responsibility for this offense up to and including the time of sentencing, the United States
17 will recommend a two-level reduction in the applicable Sentencing Guidelines offense
18 level pursuant to U.S.S.G. § 3E1.1(a). If the defendant has an offense level of 16 or more,
19 the United States will move the Court for an additional one-level reduction in the applicable
20 Sentencing Guidelines offense level pursuant to U.S.S.G. § 3E1.1(b).

21 4. **AGREEMENT TO DISMISS OR NOT TO PROSECUTE**

22 a. Pursuant to Fed. R. Crim. P. 11(c)(1)(A), the United States, at the time of
23 sentencing, shall dismiss the following charges: Not applicable.

24 b. This agreement does not, in any manner, restrict the actions of the United
25 States in any other district or bind any other United States Attorney's Office.

26 5. **COURT APPROVAL REQUIRED; REINSTITUTION OF PROSECUTION**

27 a. If the Court, after reviewing this plea agreement, concludes that any
28 provision contained herein is inappropriate, it may reject the plea agreement and give the

1 defendant the opportunity to withdraw the guilty plea in accordance with Fed. R. Crim. P.
2 11(c)(5).

3 b. If the defendant's guilty plea or plea agreement is rejected, withdrawn,
4 vacated, or reversed at any time, this agreement shall be null and void, the United States
5 shall be free to prosecute the defendant for all crimes of which it then has knowledge and
6 any charges that have been dismissed because of this plea agreement shall automatically
7 be reinstated. In such event, the defendant waives any and all objections, motions, and
8 defenses based upon the Statute of Limitations, the Speedy Trial Act, or constitutional
9 restrictions in bringing later charges or proceedings. The defendant understands that any
10 statements made at the time of the defendant's change of plea or sentencing may be used
11 against the defendant in any subsequent hearing, trial, or proceeding subject to the
12 limitations of Fed. R. Evid. 410.

13 **6. WAIVER OF DEFENSES AND APPEAL RIGHTS**

14 The defendant waives (1) any and all motions, defenses, probable cause
15 determinations, and objections that the defendant could assert to the indictment or
16 information; and (2) any right to file an appeal, any collateral attack, and any other writ or
17 motion that challenges the conviction, an order of restitution or forfeiture, the entry of
18 judgment against the defendant, or any aspect of the defendant's sentence, including the
19 manner in which the sentence is determined, including but not limited to any appeals under
20 18 U.S.C. § 3742 (sentencing appeals) and motions under 28 U.S.C. §§ 2241 and 2255
21 (habeas petitions), and any right to file a motion for modification of sentence, including
22 under 18 U.S.C. § 3582(c) (except for the right to file a compassionate release motion under
23 18 U.S.C. § 3582(c)(1)(A) and to appeal the denial of such a motion). This waiver shall
24 result in the dismissal of any appeal, collateral attack, or other motion the defendant might
25 file challenging the conviction, order of restitution or forfeiture, or sentence in this case.
26 This waiver shall not be construed to bar an otherwise-preserved claim of ineffective
27 assistance of counsel or of "prosecutorial misconduct" (as that term is defined by Section
28 II.B of Ariz. Ethics Op. 15-01 (2015)).

1 **7. DISCLOSURE OF INFORMATION**

2 a. The United States retains the unrestricted right to provide information and
3 make any and all statements it deems appropriate to the U.S. Probation Office and to the
4 Court in connection with the case.

5 b. Any information, statements, documents, and evidence that the defendant
6 provides to the United States pursuant to this agreement may be used against the defendant
7 at any time.

8 c. The defendant shall cooperate fully with the U.S. Probation Office. Such
9 cooperation shall include providing complete and truthful responses to questions posed by
10 the U.S. Probation Office including, but not limited to, questions relating to:

11 (1) criminal convictions, history of drug abuse, and mental illness; and

12 (2) financial information, including present financial assets or liabilities

13 that relate to the ability of the defendant to pay a fine or restitution.

14 **8. FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS**

15 a. Nothing in this agreement shall be construed to protect the defendant from
16 administrative or civil forfeiture proceedings or prohibit the United States from proceeding
17 with and/or initiating an action for civil forfeiture. Pursuant to 18 U.S.C. § 3613, all
18 monetary penalties, including restitution imposed by the Court, shall be due immediately
19 upon judgment, shall be subject to immediate enforcement by the United States, and shall
20 be submitted to the Treasury Offset Program so that any federal payment or transfer of
21 returned property the defendant receives may be offset and applied to federal debts (which
22 offset will not affect the periodic payment schedule). If the Court imposes a schedule of
23 payments, the schedule of payments shall be merely a schedule of minimum payments and
24 shall not be a limitation on the methods available to the United States to enforce the
25 judgment.

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1 **9. ELEMENTS**

2 **Possession of a Firearm Not Registered in the National Firearms Registration and**
 3 **Transfer Record**

4 On or between May 18, 2018, and January 31, 2021, in the District of Arizona:

- 5 1. The defendant knowingly possessed 19 Molotov Cocktails, which are National
 6 Firearms Act firearms;
 7 (pursuant to Title 26, § 5645(a)(8) the term firearm includes "destructive
 8 devices," which are defined in § 5645(f)(1)(A) to include incendiary bombs)
- 9 2. That the 19 Molotov Cocktails were incendiary bombs;
- 10 3. That the defendant knew of the characteristics of the firearms, that is, that they
 11 were incendiary bombs;
- 12 4. That the firearms were (could readily have been put) in operating condition; and
- 13 5. That the firearms were not registered to the defendant in the National Firearms
 14 Registration and Transfer Record.

15 (It does not matter whether the defendant knew that the 19 Molotov Cocktails
 16 were not registered or had to be registered.)

17 **10. FACTUAL BASIS**

18 a. The defendant admits that the following facts are true and that if this matter
 19 were to proceed to trial the United States could prove the following facts beyond a
 20 reasonable doubt:

21 b. The defendant possessed 19 Molotov Cocktails in the garage of a home he
 22 had leased with his wife between May 18, 2018, and January 31, 2021, the date the Molotov
 23 Cocktails were seized by the FBI. The Molotov Cocktails consisted of 19 12-ounce ginger
 24 beer bottles filled with a mixture of gasoline, used motor oil, and polystyrene. The bottles
 25 had been resealed with original style metal caps and were placed in four-pack cardboard
 26 carrying packaging, with cloth wicks for each of the 19 bottles. The 19 Molotov Cocktails
 27 were examined by the FBI laboratory and determined to be functional incendiary bombs.
 28 The defendant knew the items were incendiary bombs and stated that he hoped to detonate
 them in the desert, but not use them on people or improved property. All that had to be

1 done to ignite the Molotov Cocktails was to remove the metal cap, insert the wick, light
2 the wick, and cause the bottle to break by throwing it against a hard object. The motor oil
3 and polystyrene would function to cause the gasoline to adhere to whatever the bottle was
4 broken against, while it burned. An ATF check determined that the Molotov Cocktails were
5 not registered in the National Firearms Registration and Transfer Record to the defendant,
6 or anyone else.

7 c. The defendant shall swear under oath to the accuracy of this statement and,
8 if the defendant should be called upon to testify about this matter in the future, any
9 intentional material inconsistencies in the defendant's testimony may subject the defendant
10 to additional penalties for perjury or false swearing, which may be enforced by the United
11 States under this agreement.

12 **APPROVAL AND ACCEPTANCE OF THE DEFENDANT**

13 I have read the entire plea agreement with the assistance of my attorney. I
14 understand each of its provisions and I voluntarily agree to it.

15 I have discussed the case and my constitutional and other rights with my attorney.
16 I understand that by entering my plea of guilty I shall waive my rights to plead not guilty,
17 to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to
18 present evidence in my defense, to remain silent and refuse to be a witness against myself
19 by asserting my privilege against self-incrimination, all with the assistance of counsel, and
20 to be presumed innocent until proven guilty beyond a reasonable doubt.

21 I agree to enter my guilty plea as indicated above on the terms and conditions set
22 forth in this agreement.

23 I have been advised by my attorney of the nature of the charges to which I am
24 entering my guilty plea. I have further been advised by my attorney of the nature and range
25 of the possible sentence and that my ultimate sentence shall be determined by the Court
26 after consideration of the advisory Sentencing Guidelines.

1 My guilty plea is not the result of force, threats, assurances, or promises, other than
2 the promises contained in this agreement. I voluntarily agree to the provisions of this
3 agreement and I agree to be bound according to its provisions.

4 I understand that if I am granted probation or placed on supervised release by the
5 Court, the terms and conditions of such probation/supervised release are subject to
6 modification at any time. I further understand that if I violate any of the conditions of my
7 probation/supervised release, my probation/supervised release may be revoked and upon
8 such revocation, notwithstanding any other provision of this agreement, I may be required
9 to serve a term of imprisonment or my sentence otherwise may be altered.

10 This written plea agreement, and any written addenda filed as attachments to this
11 plea agreement, contain all the terms and conditions of the plea. Any additional
12 agreements, if any such agreements exist, shall be recorded in a separate document and
13 may be filed with the Court under seal; accordingly, additional agreements, if any, may not
14 be in the public record.


15 I further agree that promises, including any predictions as to the Sentencing
16 Guideline range or to any Sentencing Guideline factors that will apply, made by anyone
17 (including my attorney) that are not contained within this written plea agreement, are null
18 and void and have no force and effect.

19 I am satisfied that my defense attorney has represented me in a competent manner.

20 I fully understand the terms and conditions of this plea agreement. I am not now
21 using or under the influence of any drug, medication, liquor, or other intoxicant or
22 depressant that would impair my ability to fully understand the terms and conditions of this
23 plea agreement.

24
25 Date

8/17/23

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27
28

Welsey Warren Temple
Defendant

APPROVAL OF DEFENSE COUNSEL

I have discussed this case and the plea agreement with my client in detail and have advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea including the maximum statutory sentence possible. I have further discussed the concept of the advisory Sentencing Guidelines with the defendant. No assurances, promises, or representations have been given to me or to the defendant by the United States or any of its representatives that are not contained in this written agreement. I concur in the entry of the plea as indicated above and that the terms and conditions set forth in this agreement are in the best interests of my client. I agree to make a bona fide effort to ensure that the guilty plea is entered in accordance with all the requirements of Fed. R. Crim. P. 11.

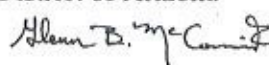
8-17-23
Date


Stephen Garcia
Attorney for Defendant

APPROVAL OF THE UNITED STATES

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth herein are appropriate and are in the best interests of justice.

GARY M. RESTAINO
United States Attorney
District of Arizona



Digitally signed by GLENN
MCCORMICK
Date: 2023.08.18 10:38:51 -07'00'

Date

GLENN B. MCCORMICK
Assistant U.S. Attorney

ACCEPTANCE BY THE COURT

Date

Honorable JOHN J. TUCHI
United States District Judge